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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,191	04/20/2004	Anita M. Coons	COO.US.2	3190

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DECKER LAW OFFICE
1 NEW HAMPSHIRE AVE.
SUITE 125
PORTSMOUTH, NH 03801

EXAMINER

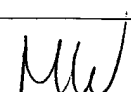
SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/709,191	Applicant(s) COONS, ANITA M.	
	Examiner Robert P. Swiatek	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-19 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-9 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4-20-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-6, 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Harty (US 5,134,836: Ref. no. 5 on Electronic Information Disclosure Statement). The Harty cover 13 is formed of soft rubber and includes Velcro strips 17 extending along opposite longitudinal edges to permit the cover to be placed about a saddle girth 10. Securing mechanisms in the form of ties 18 are provided at the ends of the cover. As to claim 4, the rubber construction of the Harty cover is considered to be stretchable both longitudinally and radially. With respect to claim 6, the Harty cover could fit an equine leg or tail strap inasmuch as each comes in a wide variety of sizes.

Claims 1, 5, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Mead-Lewis (US 6,085,499). The Mead-Lewis tail bag 22 is made from a flexible sheet material and has securing mechanisms 128, 130 located at respective top and bottom ends of the bag as well as a Velcro closure mechanism 131 extending along opposite longitudinal edges of the bag. As to claim 6, the Mead-Lewis tail bag *could* enclose an equine leg or tail strap.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3643

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mead-Lewis. The precise composition of the flexible material comprising the tail bag 22 of Mead-Lewis and the dimensions of the bag would have been obvious to one skilled in the art seeking to reduce costs and permit the tail bag to be used with a wide variety of differently-sized horses, respectively.

Claims 2, 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, line 3, and claim 11, line 4, the trade name "Lycra" does not properly restrict the scope of the claims inasmuch as it only identifies the source of goods but not the goods themselves. It should be replaced with a generic expression.

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The disclosure is objected to because of the following informalities: In paragraph 15, line 12, the phrase "one over the over" is unclear; in paragraph 16, line 7, "30" should be deleted and reinserted after "ends"; in paragraph 17, line 10, the expression "VELCRO(r)" is unclear.

Appropriate correction is required.

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

Art Unit: 3643

The oath or declaration is defective because: It is unsigned and undated.

The patents to Murphy (US 1,051,618), Schroedter (US 1,609,577), and Koch (US 6,397,783 B1) have been cited to provide additional examples of animal straps.

RPS: ©703/308-2700

21 July 2004

Robert P. Swiatek

ROBERT P. SWIATEK

PRIMARY EXAMINER

ART UNIT ~~383~~ 3643